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SUBJECT: ELECTORAL TRIBUNAL DISCOUNTS "NULLIFICATION" RUMORS

Classified By: Acting DCM Leslie A Bassett for reasons 1.4 (B,D)

¶1. (C) Summary: While Mexican media have in recent days lingered on the possibility the Electoral Tribunal (TEPJF) might annul the 2006 presidential voting, six of the seven members of the TEPJF assured us such a decision was virtually impossible. In a meeting June 20 TEPJF President Leonel Castillo and five of his colleagues reviewed the most famous instance in which the Tribunal annulled an election -- the 2000 Tabasco gubernatorial vote -- and stressed that current conditions were not comparable. The TEPJF magistrates clearly expect to receive a string of legal complaints ranging from ballot box counts to the conduct of the overall process -- and are just as clearly poised to deal with them promptly. End Summary

Tabasco in 2000

¶2. (C) A series of recent press reports have dwelled on the 2000 Tabasco precedent set by the TEPJF when it annulled gubernatorial elections, prompting some analysts to speculate that the criteria applied in 2000 could be applied as well to the upcoming presidential election. Castillo and his colleagues quickly dismissed the comparisons, noting first that the electoral law did not specify criteria for annulling a presidential election. Second, the ruling in Tabasco relied on both federal and state law. It was based on findings of systemic, well-documented violations by the electoral board, the media, the state government (led by current PRI presidential candidate Roberto Madrazo), and voting station coordinators. The flagrant violations, the failure of electoral institutions to correct them, and the slim margin of (PRI) victory prompted the justices to effectively create the concept of "abstract nullification," to require a re-vote. While none of the violations taken alone was sufficient to annul the election, magistrates explained, the sum of the violations, the level of proof presented, and the close outcome together merited a re-vote. The magistrates acknowledged that since 2000 the losing party in many subsequent local, state and federal elections has tried to have "abstract nullification" applied again, but in few instances did the same circumstances pertain.

Mexico in 2006

¶3. (C) Certainly they would not appear to pertain now, Castillo commented, although the Tribunal could make no final decision until a case was presented and the evidence evaluated. Castillo noted that the Federal Electoral Institute (IFE) had monitored the campaign process closely, had responded promptly to party complaints about everything from promotional materials to possible compromise of the quick count sites. IFE's logistical organization of the vote appeared impeccable and even-handed. The TEPJF had sought to "vaccinate" itself against a call for nullification by, for example, ruling that the National Action Party (PAN) had to withdraw attack ads targeting Democratic Revolution Party (PRD) candidate Andres Manuel Lopez Obrador (AMLO). The

TEPJF fully expected to receive an argument for "abstract nullification" from one or more parties, depending on the outcome. They also expected to adjudicate a large number of other complaints for both the congressional and presidential vote, primarily at the booth or district level.

Timely Decisions

¶4. (C) The magistrates were also quick to stress that they understood the political costs of uncertainty and would move quickly through the complaints they expect to receive. Parties have until July 9 to file at the district level complaints about the conduct of the voting process or the vote count. If the complaints cannot be resolved at the district level, they must be immediately transferred to the TEPJF. By July 15 the TEPJF must have in hand all the complaints it will consider. By August 28 the law requires the TEPJF to have resolved all issues related to the congressional vote and ratify the winners. By September 2 the TEPJF must, by law, ratify the presidential victor. However, decisions on individual complaints -- and possibly on nullification requests -- could be made and announced much sooner. Moreover, Castillo noted that in 2000 the same TEPJF ratified the presidential election by August 2, a month ahead of schedule. The magistrates confirmed that their intent is to ratify the election results as quickly as possible.

¶5. (C) Comment: The six magistrates were clearly on the same wavelength regarding "abstract nullification" and eager to reassure us of the virtual impossibility that the presidential election could be annulled. They made clear that despite the parties' shrill complaints about President Fox and pot shots at IFE, from their perspective the election process is not fundamentally flawed. Six of the seven magistrates on the court were present during 2000, and know

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what they are in for. All of those six will complete their terms in October 2006, with only one member carrying on to the next Tribunal.

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